

Leonard D. DuBoff, OSB #774378
lduboff@dubofflaw.com
The DuBoff Law Group, PC
6665 SW Hampton Street, Suite 200
Portland, OR 97223-8357
Telephone: (503) 968-8111
Facsimile: (503) 868-7228

Attorney for Plaintiff
Oregon Catholic Press

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

OREGON CATHOLIC PRESS,

Plaintiff,

v .

VINCENT A. AMBROSETTI,
INDIVIDUALLY AND AS TRUSTEE OF
THE KING’S MINISTRELS CHARITABLE
TRUST aka INTERNATIONAL LITURGY
PUBLICATIONS,

Defendant.

Case No.

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT
OF COPYRIGHT**

DEMAND FOR JURY TRIAL

Plaintiff, Oregon Catholic Press (“OCP”), brings this action for declaratory judgment against Defendant Vincent A. Ambrosetti, individually and as Trustee of the King’s Ministrels Charitable Trust aka International Liturgy Publications (“Ambrosetti”).

PARTIES

1.

Plaintiff OCP is a not-for-profit religious publisher based in Portland, Oregon, doing business as Oregon Catholic Press and as North American Liturgy Resources. It publishes

liturgical music, books, choral collections, hymnals, missals, and support materials for the Catholic Church.

2.

Defendant Ambrosetti is the trustee of King's Ministrels Charitable Trust aka International Liturgy Publications.

JURISDICTION AND VENUE

3.

Plaintiff seeks a declaratory judgment of non-infringement of copyrights asserted against Plaintiff by Defendant.

4.

The Court has federal subject matter jurisdiction over this action pursuant to 28 USC §1331 (federal question), 28 USC §1338(a) (copyrights) and 28 USC §2201 (Declaratory Judgment Act).

5.

The Court has personal jurisdiction over Defendant because Defendant transacts business within this forum.

6.

Venue is proper in this Court, pursuant to 28 USC § 1391(b), in that a substantial part of the events giving rise to the claims occurred in this district, and Defendant transacts business in this district.

GENERAL ALLEGATIONS

7.

On August 27, 2019, Ambrosetti filed a Complaint for Copyright Infringement against OCP in the United States District Court, Northern District of Indiana, South Bend Division as Case No. 3:19-cv-00682-JD-MGG ("Indiana Suit"). In the Indiana Suit complaint, Ambrosetti

purports to be the legal and beneficial owner of the copyright to the musical composition entitled “Emmanuel.”

8.

Ambrosetti alleges his ownership of the copyright to “Emmanuel” stems from a copyright registration for a collection titled *I Will Sing*, for which a copyright registration was obtained on April 1, 1991, as registration no. PA0000525379 in which the copyright claimants are Pauline Krystal Music & International Liturgy Publications. The registration is for a compilation of works and likely does not protect any of the individual works in the compilation. Tellingly, Ambrosetti also filed an application for copyright registration with the U.S. Copyright Office for the musical work “Emmanuel” on August 12, 2019, two weeks before the Indiana Suit was filed. The copyright registration application for “Emmanuel” is still in process.

9.

In the Indiana Suit, Ambrosetti alleges OCP infringed his copyright to “Emmanuel” by marketing, selling, distributing, and licensing a musical work composed by Bernadette Farrell (“Farrell”) titled “Christ Be Our Light.” Ambrosetti alleges Farrell copied “Emmanuel” when composing “Christ Be Our Light.”

10.

There presently exists a justiciable controversy regarding Plaintiff’s right to market, sell, distribute and license the work “Christ Be Our Light.” The dispute between Plaintiff and Defendant is definite and concrete.

FIRST COUNT

(Declaratory Judgment of First to File)

11.

Plaintiff incorporates by reference its allegations set forth in paragraphs 1-10.

12.

Ambrosetti does not currently own a registered copyright to the musical work “Emmanuel,” and therefore cannot file a lawsuit alleging that the copyright has been infringed by marketing, selling, distributing, and licensing Farrell’s work “Christ Be Our Light.”

13.

Ambrosetti filed an application for copyright registration for the musical work “Emmanuel” on August 12, 2019, two weeks before the Indiana Suit was filed. The filing of an application does not satisfy the requirement of 17 U.S.C. § 411 that the copyright to a work be registered prior to instituting an infringement action. The work “Emmanuel” appears in a collection of works titled *I Will Sing* for which a registered copyright was obtained by International Liturgy Publications (“ILP”) and Pauline Krystal Music in 1991, however that copyright extends only to the compilation, and not the individual works contained in the compilation. The Indiana Suit was therefore filed prematurely as the copyright to “Emmanuel” was not registered before the suit was filed.

14.

Because the Indiana Suit was improperly filed, OCP seeks a declaratory judgment stating that this lawsuit is the first proper case filed.

SECOND COUNT

(Declaratory Judgment of Non-Infringement of Alleged Copyright)

15.

OCP incorporates by reference its allegations set forth in paragraphs 1-14.

16.

Farrell’s work “Christ Be Our Light” is not substantially similar to “Emmanuel” and was independently created by Farrell, who resides in London, England and has resided there for her entire life.

17.

OCP seeks a declaratory judgment that OCP has not infringed and is not infringing the copyright to “Emmanuel.”

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Declare that OCP has not infringed and is not infringing the copyright to “Emmanuel”;
- B. Declare that OCP’s suit filed in the United States District Court, District of Oregon is the first properly filed case regarding this dispute; and
- C. Award Plaintiff’s reasonable attorney fees and such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED this 3rd day of September, 2019.

/s/ Leonard D. DuBoff

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